

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

CARL EDWARD WILLIS

PLAINTIFF

v.

Civil No. 06-2068

HEAD PROSECUTOR, Sebastian
County Arkansas; WENDY
SHARUM, Deputy Prosecuting
Attorney; STACEY SLAUGHTER,
Deputy Prosecuting Attorney;
DANIEL SHUE, Deputy Prosecuting
Attorney; CITY OF FORT SMITH,
ARKANSAS; FORT SMITH POLICE
DEPARTMENT; and CHIEF OF POLICE,
FORT SMITH, ARKANSAS

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

On March 26, 2007, plaintiff filed a notice of appeal and a motion to proceed *in forma pauperis* (IFP) on appeal (Doc. 14 and Doc. 15). The motion seeking leave to appeal in forma pauperis has been referred to the undersigned.

Pursuant to 28 U.S.C. § 1915(a)(3) an appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith. A reasonable person could not suppose this appeal would have some merit. It is clear that plaintiff's claims are frivolous, asserted against individuals who are immune from suit, or are not cognizable under 42 U.S.C. § 1983. I therefore recommend that the motion to proceed *in forma pauperis* on appeal be denied. The plaintiff may, of course, file a motion to appeal IFP with the Court of Appeals for the Eighth Circuit.

The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

Dated this 28th day of March 2007.

/s/ *J. Marschewski*

HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE